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WILMERHALE/BOSTON 60 STATE STREET BOSTON, MA 02109			EXAMINER RAPILLO, KRISTINE K	
			ART UNIT 3626	PAPER NUMBER
			NOTIFICATION DATE 03/24/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/624,098	Applicant(s) BOWMAN ET AL.	
	Examiner KRISTINE K. RAPILLO	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 21 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/21/2003; 3/7/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1 – 32 are pending.

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 178 (Figure 5). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5, 7, 12, 16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Goodman (U.S. Patent Number 5,827,180).

In regard to claim 1, Goodman teaches a computer-implemented communication method for message transmitting and message receiving users having related health characteristics, comprising:

- the message receiving user defining at a receiving user computer personal health message receiving criteria for determining messages to be received from other users who conform to the personal health message receiving criteria, the personal health message receiving criteria

Art Unit: 3626

including personal or health characteristics relating to the message receiving user (column 4, lines 39 – 45) where a message is sent to a message receiver (i.e. patient) based on his personal health history (in this case, the patients medication history);

- the message transmitting user defining at a transmitting user computer a message and personal health message transmitting criteria for directing the message to other users whose personal health message receiving criteria conform to the personal health message transmitting criteria, the personal health message transmitting criteria including personal or health characteristics relating to the message transmitting user; and transmitting the message to any message receiving user with personal health message receiving criteria that conform to the personal health message transmitting criteria (column 6, lines 1 – 3 and column 11, lines 3 – 8) where the method described by Goodman can send messages to a patient based on health characteristics of a patient (i.e. high pollen counts for asthmatics) as illustrated in column 11, lines 6 – 13.

In regard to claim 5, Goodman teaches the method of claim 1 further comprising for the message receiving user at the receiving user computer a receiving user interface that allows the receiving user to specify message receiving criteria that include plural health conditions relating to the message receiving user from among predefined health conditions column 5, lines 57 – 63, column 6, lines 1 - 3, and column 11, lines 6 - 13). Goodman discloses a method in which messages are received by a patient regarding specific health conditions, and information that may have an impact on the health condition (i.e. weather).

In regard to claim 7, Goodman teaches the method of claim 1 further comprising for the message transmitting user at the transmitting user computer a transmitting user interface that allows the transmitting user to specify message receiving criteria that include plural health conditions relating to the message transmitting user from among predefined health conditions (column 10, lines 29 - 36). The Examiner interprets treatment parameters, as taught by Goodman, to be a form of a pre-defined condition.

Art Unit: 3626

Computer readable medium claims 12, 16, and 18 repeat the subject matter of method claims 1, 5, and 7 as a set of apparatus elements rather than a series of steps. As the underlying elements of claims 1, 5, and 7 have been shown to be fully disclosed by the teachings of Goodman in the above rejection of claims 1, 5, and 7 it is readily apparent that the computer readable medium claims disclosed by Goodman perform the method steps. As such, the limitations of claims 12, 16, and 18 are rejected for the same reasons given above for method claims 1, 5, and 7, and incorporated herein.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 – 4, 5, 8 – 11, 13 – 15, 17, and 19 - 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman in view of the article entitled "WellMed Introduces Industry's First Comprehensive Personal Health Management System Including Online Health Record" (WellMed, Inc., Oregon, August 23, 1999. PR Newswire), hereinafter WellMed.

In regard to claim 2, Goodman teaches the method of claim 1 in which the message is transmitted to the message receiving user with personal health message receiving criteria that conform to the personal health message transmitting criteria.

Goodman fails to teach a method of transmitting a message without disclosing the identity of the message receiving user to the message transmitting user.

WellMed teaches a method in which the message is transmitted to the message receiving user with personal health message receiving criteria that conform to the personal health message transmitting criteria (paragraph 16).

Art Unit: 3626

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a method in which the message is transmitted to the message receiving user with personal health message receiving criteria that conform to the personal health message transmitting criteria as taught by WellMed with the motivation of providing online tools that simplify the access and control of health or medical information (see WellMed: paragraph 6).

In regard to claim 3, Goodman teaches a method, as per claim 1, in which personal health message receiving criteria conform to personal health message transmitting criteria.

Goodman fails to teach a method in which personal health message receiving criteria conform to personal health message transmitting criteria only if the personal health message receiving criteria include all of the personal health message transmitting criteria.

WellMed teaches a method in which personal health message receiving criteria conform to personal health message transmitting criteria only if the personal health message receiving criteria include all of the personal health message transmitting criteria (paragraph 15).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a method in which personal health message receiving criteria conform to personal health message transmitting criteria only if the personal health message receiving criteria include all of the personal health message transmitting criteria as taught by WellMed with the motivation of providing an online tool in which a user can specify what messages can be transmitted based on their criteria (i.e. interests, health concerns) – paragraph 8.

In regard to claim 4, Goodman teaches the method of claim 1 in which personal health message receiving criteria conform to personal health message transmitting criteria.

Goodman fails to teach a method in which personal health message receiving criteria conform to personal health message transmitting criteria if the personal health message receiving criteria include at least selected ones of the personal health message transmitting criteria.

Art Unit: 3626

WellMed teaches a method in which personal health message receiving criteria conform to personal health message transmitting criteria if the personal health message receiving criteria include at least selected ones of the personal health message transmitting criteria (paragraph 6).

The motivation to combine the teachings of Goodman and WellMed are discussed in the rejection of claim 3, and incorporated herein.

In regard to claim 6, Goodman teaches the method of claim 5 in which the receiving user interface further allows the receiving user to specify message receiving criteria that include plural health conditions that relate to the message receiving user and include one or more user-defined health conditions (column 7, lines 24 – 28) where blood glucose is considered a user defined health condition.

Goodman fails to teach the method including correlating the user-defined health conditions with a health terminology thesaurus having concept unique identifiers that correspond to and provide uniform characterizations of the user-defined health conditions.

WellMed teaches the method including correlating the user-defined health conditions with a health terminology thesaurus having concept unique identifiers that correspond to and provide uniform characterizations of the user-defined health conditions (paragraph 3). WellMed teaches a health term thesaurus/reference which translates medical terms into simple explanations through their partnership with adam.com, which is known in the industry as a leading supplier of medical reference information.

The motivation to combine the teachings of Goodman and WellMed is discussed in the rejection of claim 2, and incorporated herein.

In regard to claim 8, Goodman teaches the method of claim 7 in which the transmitting user interface further allows the transmitting user to specify message transmitting criteria that include plural health conditions that relate to the message transmitting user and include one or more user-defined health conditions (column 7, lines 24 – 28).

Goodman fails to teach the method including correlating the user-defined health conditions with a health terminology thesaurus.

Art Unit: 3626

WellMed teaches the method including correlating the user-defined health conditions with a health terminology thesaurus (paragraph 3). WellMed teaches a health term thesaurus/reference which translates medical terms into simple explanations through their partnership with adam.com, which is known in the industry as a leading supplier of medical reference information.

The motivation to combine the teachings of Goodman and WellMed is discussed in the rejection of claim 2, and incorporated herein.

In regard to claim 9, Goodman teaches the method of claim 1 further comprising obtaining from each user personal health related information about the user, the health-related information including one or more health-related terms that each corresponds to a health-related concept (column 1, lines 31 – 34).

Goodman fails to teach a method correlating with a health terminology thesaurus each of the one or more health- related terms with a single concept unique identifier that uniquely identifies a corresponding health-related concept, each concept unique identifier having associated with it one or more terms corresponding to a common health-related concept, ones of the terms being lay medical terms and not clinical medical terms.

WellMed teaches a method correlating with a health terminology thesaurus each of the one or more health- related terms with a single concept unique identifier that uniquely identifies a corresponding health-related concept, each concept unique identifier having associated with it one or more terms corresponding to a common health-related concept, ones of the terms being lay medical terms and not clinical medical terms (paragraph 3).

The motivation to combine the teachings of Goodman and WellMed is discussed in the rejection of claim 2, and incorporated herein.

In regard to claim 10, Goodman teaches the method of claim 9 in which computer implementation of the method employs a client computer and a server computer that are interconnected by a computer network the method further comprising:

Art Unit: 3626

- providing at the client computer a user interface with which each user provides the personal health-related information about the user, the health-related information being defined by one or more health-related terms (column 13, lines 3 – 55) – Goodman teaches a method in which the health related information is relayed to a host computer as well as supplemental user information (i.e. doctor appointment, medication);
- transmitting the personal health-related information about the user over the computer network to the server computer, (column 13, lines 3 – 55); and
- correlating each of the one or more health-related terms with a single concept unique identifier at the server computer (column 8, lines 37 – 63).

Goodman fails to teach a method comprising the server computer storing the health terminology thesaurus.

WellMed teaches a method comprising the server computer storing the health terminology thesaurus (paragraph 3).

The motivation to combine the teachings of Goodman and WellMed is discussed in the rejection of claim 6, and incorporated herein.

In regard to claim 11, Goodman teaches the method of claim 10 in which the computer network includes the Internet (column 2, lines 45 – 49).

Computer readable medium claims 13 – 15, 17, and 19 - 22 repeat the subject matter of method claims 2 – 4, 6, and 8 - 11 as a set of apparatus elements rather than a series of steps. As the underlying elements of claims 2 – 4, 6, and 8 - 11 have been shown to be fully disclosed by the teachings of Goodman in the above rejection of claims 2 – 4, 6, and 8 - 11 it is readily apparent that the computer readable medium claims 13 – 15, 17, and 19 - 22 disclosed by Goodman perform the method steps. As such, these limitations for claims 13 – 15, 17, and 19 - 22 are rejected for the same reasons given above for method claims 2 – 4, 6, and 8 - 11, and incorporated herein.

Art Unit: 3626

In regard to claim 23, Goodman teaches a computer-readable medium (column 7, lines 60 –65).

Goodman fails to teach a data structure comprising: personal health message receiving criteria associated with receiving users for determining messages to be received from other users who conform to the personal health message receiving criteria, the personal health message receiving criteria including personal or health characteristics relating to the receiving users; and personal health message transmitting criteria associated with transmitting users for directing a selected message to other users whose personal health message receiving criteria conform to the personal health message transmitting criteria, the personal health message transmitting criteria including personal or health characteristics relating to the transmitting users.

WellMed teaches a data structure comprising: personal health message receiving criteria associated with receiving users for determining messages to be received from other users who conform to the personal health message receiving criteria, the personal health message receiving criteria including personal or health characteristics relating to the receiving users (paragraphs 8 and 16); and personal health message transmitting criteria associated with transmitting users for directing a selected message to other users whose personal health message receiving criteria conform to the personal health message transmitting criteria, the personal health message transmitting criteria including personal or health characteristics relating to the transmitting users (paragraphs 8 and 16).

The motivation to combine the teachings of Goodman and WellMed is discussed in the rejection of claim 2, and incorporated herein.

In regard to claim 24, Goodman teaches the data structure of claim 23 in which one or more of the personal health message receiving criteria and the personal health message transmitting criteria are correlated with concept unique identifiers that uniquely identify health-related characteristics (column 8, lines 37 – 63).

In regard to claim 25, Goodman teaches the data structure of claim 24 in which each concept unique identifier includes numeric characters (column 6, lines 16 – 42).

In regard to claim 26, Goodman teaches the data structure of claim 24 in which each Concept unique identifier includes alpha-numeric characters (column 6, lines 16 – 42).

In regard to claim 27, Goodman teaches a personal health messaging graphical user interface rendered on a computer display screen, comprising: plural predefined health condition controls that correspond to different health conditions and are separately selectable by a user as relating to the user, the predefined health condition controls corresponding to messaging criteria for identifying users between whom personal health messages are directed (column 6, line 65 through column 7, line 20; column 7, lines 34 – 45; and column 2, lines 17 – 24).

In regard to claim 28, Goodman teaches the user interface of claim 27.

Goodman fails to teach a user interface configured as a receiving user interface in which the predefined health condition controls correspond to messaging criteria for identifying users from whom personal health messages are to be received.

WellMed teaches the user interface configured as a receiving user interface in which the predefined health condition controls correspond to messaging criteria for identifying users from whom personal health messages are to be received (paragraph 16).

The motivation to combine the teachings of Goodman and WellMed is discussed in the rejection of claim 3, and incorporated herein.

In regard to claim 29, Goodman teaches the user interface of claim 27.

Goodman fails to teach a user interface configured as a transmitting user interface in which the predefined health condition controls correspond to messaging criteria for identifying users to whom personal health messages are to be transmitted

Art Unit: 3626

WellMed teaches a user interface configured as a transmitting user interface in which the predefined health condition controls correspond to messaging criteria for identifying users to whom personal health messages are to be transmitted (paragraph 16).

The motivation to combine the teachings of Goodman and WellMed is discussed in the rejection of claim 28, and incorporated herein.

In regard to claim 30, Goodman teaches the user interface of claim 27.

Goodman fails to teach a user interface further comprising a user-defined health condition control in which a user may enter one or more health condition terms that correspond to messaging criteria for identifying users between whom personal health messages are directed.

WellMed teaches a user interface further comprising a user-defined health condition control in which a user may enter one or more health condition terms that correspond to messaging criteria for identifying users between whom personal health messages are directed (paragraph 6).

The motivation to combine the teachings of Goodman and WellMed is discussed in the rejection of claim 28, and incorporated herein.

In regard to claim 31, Goodman teaches the user interface of claim 27.

Goodman fails to teach a user interface configured as a receiving user interface in which the predefined health condition controls and the user-defined health condition control correspond to messaging criteria for identifying users from whom personal health messages are to be received.

WellMed teaches a user interface configured as a receiving user interface in which the predefined health condition controls and the user-defined health condition control correspond to messaging criteria for identifying users from whom personal health messages are to be received (paragraphs 8 and 16).

The motivation to combine the teachings of Goodman and WellMed is discussed in the rejection of claim 28, and incorporated herein.

In regard to claim 32, Goodman teaches the user interface of claim 27

Art Unit: 3626

Goodman fails to teach a user interface configured as a transmitting user interface in which the predefined health condition controls and the user-defined health condition control correspond to messaging criteria for identifying users to whom personal health messages are to be transmitted.

WellMed teaches a user interface configured as a transmitting user interface in which the predefined health condition controls and the user-defined health condition control correspond to messaging criteria for identifying users to whom personal health messages are to be transmitted (paragraphs 8 and 16).

The motivation to combine the teachings of Goodman and WellMed is discussed in the rejection of claim 28, and incorporated herein.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Brown (U.S. Patent Number 5,960,403) discloses a health management process control system for remotely monitoring a patient to ensure compliance to a treatment plan prescribed for the health condition.
- Brown (U.S. Patent Number 6,334,778 B1) discloses a remote psychological diagnosis and remote monitoring system which includes a server and remote interface for entering the server prompts. Access is gained via the internet.
- Apelon Press Release. February, 22, 1999. "WellMed and Lexical Technology Announce Joint Development Agreement of Online Consumer Health Records" discloses an online medical health terminology reference.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

Art Unit: 3626

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KKR

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626